IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL WRIT PETITION NO.3826 OF 1993

Shri Vishwanath Shivram God — Petitioner
Vs.
The State of Maharashtra & ors. — Respondents

Mr.G.N.Salunke for petitioner.
Mr.P.M.Patil, AGP for State.

CORAM: B.H.MARLAPALLE & D.B.BHOSALE,JJ.

March 27, 2006.

P.C.

. The petitioner's land was sought to be acquired for the resettlement of the project affected persons under the Maharashtra Resettlement of Project Displaced Persons Act, 1976, and the said acquisition came to be challenged in this petition. However, the relief sought for is for a mandamus or for an order directing the respondents to exchange the land of the petitioner for acquisition. It is contended that in place of the land sought to be acquired from Gat No.771 and admeasuring 56 Ares, the land in Gat No.744 to the same extent and belonging to the petitioner could be acquired. While granting Rule by the order dated 27/9/1993 this Court had by way of interim relief restrained the respondents from taking possession of the subject land admeasuring 56 Ares from Gat No.771 of village Godachiwadi - Nagewadi in Tal.Khanapur, Dist. Sangli.

. Admittedly as at present the land is still in possession of the petitioner though the award has been passed way back on 25th March 1994. At this stage the petitioner may have a remedy of applying to the appropriate Government under Section 48(1) of the Land Acquisition Act, 1894 for deletion of the subject land or in the alternate if the petitioner so desires, he may make an offer of exchange of the land from Gat No.744 instead of Gat No.771 from his ownership and in any case it is for the respondents - State authorities to consider such application in keeping with the provisions of law, the interest of resettlement, the suitability of the land and other relevant factors.

. We, therefore, dispose off this petition by granting liberty to the petitioner to submit an application either under Section 48(1) of the Land Acquisition Act, 1894 or an application for exchange of land within a period of four weeks from today. If such an application is received by the Tahsildar or the Land Acquisition Officer, the same shall be placed before the Divisional Commissioner who in turn shall decide the same on its own merits and in public

interest as expeditiously as possible and in any case within a period of six months from its receipt. The petitioner's possession will be protected till the application is decided by the Divisional Commissioner.

. Rule made absolute accordingly with no order as to costs.

(D.B.BHOSALE,J.) (B.H.MARLAPALLE,J.)